

This checklist was developed for use by examiners as part of policy and forms review.

Checklist for Individual Term Life Insurance Products

Insurer _____

NAIC# _____

Name of Product _____

Contact Person, Title _____

Address _____

Telephone _____ Fax _____

Date received _____ Reviewed by _____

SRB # _____

Notes:

Contents of Actuarial Memorandum

- ___ Each submission must be accompanied by an actuarial memorandum prepared and signed by an actuary that includes the following:
 - ___ A description of the product;
 - ___ The mathematical formulas, sample numerical calculations and a detailed statement of the method used to compute policy or contract values and reserves and insurance nonforfeiture benefits;
 - ___ A statement that each form's nonforfeiture values are not less than those required by Massachusetts law OR
 - ___ A statement that no nonforfeiture values are required by Massachusetts law, and a detailed demonstration on how net premiums and/or values meet the exclusionary requirement of M.G.L. c. 175, § 144. *SRB Bulletin 90-02*
 - ___ For decreasing or level term forms, the term periods and issue ages for which such forms will be issued, and the premium rates. *SRB Bulletin 90-02*
 - ___ For indeterminate premium plans, the maximum and current premium rates. *SRB Bulletin 90-02*
 - ___ Identification of risk classes covered under the policy and how rates and values are affected. *SRB Bulletin 90-02*
- ___ Any additional data, tables, and information necessary for a comprehensive review of the forms. *SRB Bulletin 90-02*

General Requirements

- ___ Each submission must include a certification by a company official that each form meets the objective standards of M.G.L. c. 175 §2B. If an insurer feels that a form is exempt from chapter 175 §2B, the basis for the contention must be stated in the cover letter. The term "text" includes all printed matter except the name and address of the insurer, name or title of the policy, the brief description, if any, captions and subcaptions, and schedule pages and tables. *M.G.L. c. 175 §2B*
 - ___ The text achieves a minimum Flesch score of 50. The Flesch score for each form must be stated in the certification: a statement to the effect that the score exceeds 50 is not permitted.
 - ___ The other objective standards of Chapter 175 §2B, section 1 are met:
 - ___ It is printed, except for tables, in not less than ten point type, one point leaded.
 - ___ The style, arrangement and overall appearance of the policy give no undue prominence to any portion of the text of the policy and any endorsements or riders;
 - ___ It contains a table of contents or an alphabetical subject index;
 - ___ The width of margins and ink to paper contrast do not unreasonably interfere with the readability of the form; and
 - ___ The organization of the content of the policy and the summary of the policy is conducive to understandability of the form.
- Note: All provisions of law relative to the filing of policy forms shall also apply to all applications designed to be attached to such policy forms and when so attached to constitute a part of the contract.**
M.G.L. c. 175 § 192
- ___ All policies must be headed by the corporate name of the company. If two or more insurers are under a common management and represent themselves to be or are customarily known as an insurance company group or similar insurance trade designation, they may, with the approval of the commissioner, head or title policies with the name of the group or similar trade designation or with the names of the individual members of the group, provided that the company assuming the insurance is specifically identified. *M.G.L. c. 175, §18*
- ___ All policies must be signed by the company's secretary or an assistant secretary, or in their absence by a temporary secretary, and by its president or a vice-president, or in their absence by two directors. Riders or endorsements may be signed by one of the aforesaid officers of the company. (**Note: does not apply to riders or endorsements providing special benefits under M.G.L. c. 175, § 24.**) A facsimile of the required signature is acceptable. *M.G.L. c. 175, §33*
- ___ Policy of life insurance must contain on the first page in bold letters a plain description of the policy, "so fully defining its character, including dividend periods and other peculiarities, that the holder thereof shall not be likely to mistake the nature or scope of the contract." *M.G.L. c. 175, §129*

- ___ The commissioner may require a company to submit for her inspection copies of any policy form used by the company, which includes any rider, endorsement or application used with the policy, and copies of any circular or other advertising matter used in the commonwealth. *M.G.L. c. 175, §191*
- ___ There must be a “free look” period of at least 10 days. *M.G.L. c. 175, §187H, M.G.L. c. 176D*. In the event of replacement, the free look period must be 20 days, which must be stated in the policy or a separate written notice which is delivered with the policy. *211 CMR 34.06(1)(d)*. **Note that if the insurer uses a separate notice, the notice must be submitted with the policy for review.**

Compliance with M.G.L. c. 175, § 118:

- ___ Must state the amount of benefits payable, the manner of payment and the consideration;
- ___ Benefits cannot be contingent upon assessments upon survivors
Note: extra compensation may be charged by a company to the insured for engaging in naval or military service in time of war.

Mandatory Policy Provisions

- ___ A provision that the insured is entitled to 30 days grace within which the payment of any premium after the first year may be made, subject at the option of the company to an interest charge not in excess of 6% per year for the number of days of grace elapsing before the payment of the premium, during which grace period the policy shall continue in full force. If the policy becomes a claim during the grace period before the overdue premium or any deferred premiums of the current policy year are paid, the amount of such premiums with interest may be taken from the face of the policy in settlement. *M.G.L. c. 175, §132(1)*
- ___ A provision that the policy shall be incontestable after two years, except for nonpayment of premiums or violation of the conditions of the policy relating to military or naval service in time of war, and, at company's election, for the purpose of contesting claims for total and permanent disability or additional benefits in case of accidental death. *M.G.L. c. 175, §132(2)*
 - ___ **Note: there can be no exception for fraud.** *Protective Life v. Sullivan (1997), 682 N.E. 2nd 624, 425 Mass 615.*
- ___ A provision that the policy and application constitute the entire contract, and that no statement made by the insured or on his behalf shall be used in defense of a claim unless it is contained in a written application and that the application must be attached to the policy when issued. *M.G.L. c. 175, §132(3)* **Note: if the provision states that the application will be attached, the application form must be reviewed with the filing, or the filer must explain that a previously-approved form will be used, and provide the form number and date of approval.** *M.G.L. c. 175, §§ 131 and 192*
- ___ A provision that if the age of the insured is misstated, the amount payable will be the amount that the premium would have purchased for the correct age. *M.G.L. c. 175, §132(4)*
 - ___ If any other person's age is considered in determining the amount of any premium under a policy, the provision must apply to all such persons. *M.G.L. c. 175, §132(12)*
- ___ A provision that the holder of a policy shall be entitled to have the policy reinstated at any time within 3 years from the date of default, unless the extension period has expired, upon the production of evidence of insurability satisfactory to the company and the payment of all overdue premiums and any other indebtedness to the company. The company may charge interest not to exceed 6% per year or compounded semi-annually. *M.G.L. c. 175, §132(11)*
- ___ The policy must state that it will not terminate or lapse for nonpayment of premium until the expiration of 3 months from the due date of such premium, unless the company within not less than 10 nor more than 45 days prior to said due date, shall have mailed, postage prepaid, duly addressed to the insured at his last address shown by the company's records, or in case any other person shall have been designated to

receive premium notices and written designation of the name and address of such person has been given to the company, then to that person a notice showing the amount of such premium and its due date.

- ___ Such notice must also contain a statement as to the lapse of the policy if no payment is made as provided in the policy. If such a notice is not so sent, the premium in default may be paid at any time within said period of 3 months. The affidavit of any officer, clerk or agent of the company, or of any other person authorized to mail such notice, that the notice required by this section has been duly mailed by the company in the manner hereinbefore required, shall be prima facie evidence that such notice was duly given.
- ___ No action shall be maintained on any policy to which this section applies and which has lapsed for nonpayment of any premium unless such action is commenced within 2 years from the due date of such premium. *M.G.L. c. 175, § 110B*

Note, however that § 110B does not apply to:

- ___ A policy which by its term is cancellable by the company or is renewable or continuable with its consent;
 - ___ A policy for which the premiums are payable monthly or in shorter intervals.
- ___ The policy must contain a provision that states that upon the death of the insured, the proceeds payable under the policy (delivered or issued for delivery in Massachusetts and which is in force on a premium-paying basis on the date of death) must include premiums paid for any period beyond the end of the policy month in which death occurred, unless such refund of premiums is due some other person pursuant to contract provisions. *M.G.L. c. 175, § 119B*
- ___ **But note that §119B does not apply to single premium policies.**
- ___ The policy must contain a provision that states that upon the death of the insured, the proceeds payable under the policy must include the payment of interest at the rate for proceeds left on deposit with the insurer beginning 30 days after the death of the insured and shall not be payable until receipt by the insurer of proof of the insured's death.
- ___ In the event the insurer does not pay interest on proceeds left on deposit with the insurer, the rate of interest must be 6%. *M.G.L. c. 175, § 119C*
- ___ If more than one person is insured under the policy, the evidence of insurability may be required for all such persons upon whose death a benefit may accrue or become payable under the policy. *M.G.L. c. 175, §132(12)*
- ___ A provision that the policy shall participate in the surplus of the company annually, beginning no later than the end of the third policy year. *M.G.L. c. 175, §132(5)*
- ___ A participating policy must provide that the proportion of the divisible surplus of the company contributed by said policy shall be ascertained and distributed annually, and not otherwise, except as hereinafter provided, beginning not later than the end of the third policy year; but such distribution shall not be made contingent upon the payment of any further premium except that if dividends are

allowed on an anniversary of the policy preceding the third, such dividends may be made subject to the payment of the succeeding year's premium. Every such company shall on December thirty-first of each year or as soon thereafter as practicable, after providing from the funds attributable to its participating business for the reserve required by sections nine and eleven and all other liabilities attributable to such business, including dividends declared upon the capital stock, if any, and such sums as may be held on account of existing deferred dividend policies, and providing also for a contingency reserve not in excess of the limit prescribed in the following section, apportion its remaining funds attributable to such business upon the contribution to surplus plan, as dividends, to all other policies entitled to share therein.

- ___ Each such dividend shall annually, at the option of the holder of the policy,
- ___ (a) be payable in cash, or
 - ___ (b) applied in reduction of premiums, or
 - ___ (c) to the purchase of a paid-up addition, or
 - ___ (d) be left with the company to accumulate to the credit of the policy and be payable at the maturity thereof, or be withdrawable in cash on demand by the holder of the policy, or applied as herein after set forth;

Note: if no election is made by the holder of the policy prior to any anniversary thereof, the dividend for that anniversary shall be applied under option (c) or held under option (d), whichever option is designated by the terms of the policy; and if any premium on the policy is not paid at the expiration of the days of grace and dividends have been applied under option (c) or held under option (d), the company may keep the policy in force by applying the cash value of any paid-up additions or any dividend accumulations to the payment due on the policy if the cash value of such additions or the amount of such accumulations is sufficient to make said payment in full, and shall forthwith mail a notice to the holder thereof at his last known address, stating the amount of such cash values or of such accumulations which have been so applied, and the amount, if any, of paid-up additions and the cash value thereof remaining or, in the case of dividend accumulations the balance, if any, remaining to the credit of the policy; notwithstanding anything herein provided, the share of the surplus so apportioned to a term policy shall not be available for the purchase of a paid-up addition, and nothing herein contained shall operate to continue a policy in force beyond the period which the cash value of any paid-up addition or any dividend accumulation so applied would carry the policy under its full premium rate, nor beyond the term for which the policy was originally issued, and that the affidavit of any officer, clerk or agent of the company, or of any one authorized to mail such notice, that the notice required by this section has been duly mailed by the company, shall be prima facie evidence that such notice was duly given. *M.G.L. c. 175, §140*

Note: the above does not apply to any domestic stock life company issuing only nonparticipating policies. A foreign life company which does not provide in every participating policy hereafter issued or delivered in the commonwealth that

the proportion of the surplus accruing upon said policy shall be ascertained and distributed annually and not otherwise, except as hereinafter provided, either by payment in cash of the amount apportioned to a policy, or by its application to the payment of premiums or to the purchase of paid-up additions, or for the accumulation of the amounts from time to time apportioned, said accumulations to be subject to withdrawal by the policyholder, shall not be permitted to do new business within the commonwealth. *M.G.L. c. 175, §140*

Nothing in the above (*M.G.L. c. 175, §140*) shall be construed to prohibit the payment upon or after the death of the insured of a dividend for the current policy year.

Prohibitions

General Prohibitions

Prohibitions under M.G.L. c. 175, § 22: No policy of insurance may contain any condition, stipulation or agreement:

- ___ Depriving the courts of Massachusetts of jurisdiction in actions against the insurer;
 - ___ Limiting the time for commencing actions against the insurer to a period of less than two years from the time when the cause of action accrues;
 - ___ Making any person appointed and licensed as its agent the agent of the applicant, insured, policyholder or contract holder for any purpose;
 - ___ Providing that no person shall be deemed an agent of the company unless authorized by the company in writing;
 - ___ Providing that any policy made in Massachusetts on lives, property or interests therein shall be governed by the laws of any other state or country.
- ___ Policies may not include a requirement that all disputes or controversies be resolved by binding arbitration. But note that any provision that says the parties *may* agree to mediation or arbitration is permissible. The prohibition is based on the requirement that applicants waive their legal rights, or the rights of beneficiaries, set forth in M.G.L. c. 93A, § 9.
- ___ Policies may not include a limitation or exclusion on the recovery of punitive damages in the event of a dispute or controversy. *Such a limitation would be inconsistent with rights granted under M.G.L. c. 93A.*
- ___ Policies that include a provision that grants the right of the company to require an autopsy must provide flexibility that recognizes the religious practices or beliefs of the policyholder or beneficiary. *M.G.L. c. 176D.*

Anti-discrimination provisions

- ___ No company shall refuse to issue a policy or limit the coverage normally contained therein with respect to the risk of loss solely because of the sex of the insured. *M.G.L. c. 175, § 24A*
- ___ No life company shall make or permit any distinction or discrimination in favor of individuals between insureds of the same class and equal expectation of life in the amount or payment of premiums or rates charged for policies of life or endowment insurance, or in any other of the terms and conditions of the contracts it makes. *M.G.L. c. 175, § 120*
- ___ No insurer shall refuse, for the sole reason of mental retardation, to issue a policy of individual life insurance on the life of any person residing in the commonwealth who has reached the age of three years, if there is no other insurance in force or pending consideration on the life of such person. *M.G.L. c. 175, § 120A Note: also applies to fraternal*

- ___ No insurer may refuse, for the sole reason of blindness, to issue a policy of individual life insurance on the life of any such person residing in the commonwealth. *M.G.L. c. 175, § 120B*
- ___ No insurer shall cancel, refuse to issue or renew, charge any excessive rates or restrict any length of coverage or in any way practice discrimination against persons primarily because the insured person has had a suspected, alleged or confirmed exposure to the potential hazards and afflictions of DES. This includes practices and devices which are fair in form but discriminatory in practice. *M.G.L. c. 175, § 120C*
- ___ There may be no distinction or discrimination in the amount or payment of premiums or rates charged, in the length of coverage, or in any other of the terms and conditions of a policy of life insurance based on information that the person covered has been the victim of domestic abuse. *M.G.L. c. 175, § 120D*
- ___ No company may discriminate against persons of color in rates or benefits. *M.G.L. c. 175, § 122*

Optional Provisions

The following provisions may in substance be included (*i.e.* the policy does not have to have these provision; however, if included, they must be substantially similar to the following):

Settlement Option of Income

___ Is this a term policy that offers a settlement option of income?

___ yes

___ no

M.G.L. c. 175 § 132 paragraph 10 permits the proceeds of a policy to be payable in installments or as an annuity. In order to do so, the policy must contain:

___ a table showing the amounts of installments and annuity payments. *M.G.L. c. 175, §132(10)*

___ If the policy is income only, then there must be a disclosure regarding the possible tax consequences of the settlement. *M.G.L. c. 176D*

Note: If a policy contains a table(s) of payments with respect to 2 or more alternative annuities involving life contingencies, this provision shall not preclude an additional or supplementary optional annuity or annuities involving life contingencies without such a table, or without a complete table, if the policy contains a provision that the amounts of the payments may be obtained upon application to the company at any time that such amounts are determinable under the terms of the policy. *M.G.L. c. 175, §132(10)*.

Optional conversion, alteration, or exchange of policies

___ Any life company may, at the request of the holder, exchange, alter or convert any policy of life or endowment insurance, or annuity issued by it, or a company that is admitted and authorized under chapter 175 and is an affiliate of it, as defined in section 206, hereinafter called the original policy, for or into any policy of life or endowment insurance, hereinafter called the rewritten policy, as of the date of the most recently issued original policy or as of the current date, or as of any intermediate date, conforming with the laws in force as of the date of issue which the rewritten policy bears; provided, that:

___ if the rewritten policy bears a date prior to the date of application for exchange, alteration or conversion, the amount of insurance under the rewritten policy may not exceed the greater of (a) the amount of insurance under the original policy or policies if of life or endowment insurance, or (b) the amount of insurance which the premium paid for the original policy or policies would have purchased if the rewritten policy had been originally issued as of the date of issue it bears. Nothing in section 120 shall be construed to prohibit the exchange, alteration or conversion of a policy of life or endowment insurance or annuity under this section, and sections 123 and 130 shall not apply to a rewritten policy issued under the authority of this section. Nothing in section 131 or section 132 shall be construed to prohibit making the application for the original policy, if one of life or endowment

insurance, or the application for the rewritten policy issued under authority of this section, or both such applications, a part of the rewritten policy, by endorsing thereon or attaching thereto a copy of either or both such applications. Nothing in said section one hundred and thirty-two shall be construed to prohibit the incorporation, by a rider or endorsement or otherwise, in a rewritten policy issued under authority of this section and bearing a then current date or an intermediate date of a stipulation making the incontestable provision required by said section 132 operative from the date of issue of the most recently issued original policy, if one of life or endowment insurance. *M.G.L. c. 175, § 139*